FAQs for consultants

Why did the BMA re-enter negotiations?
In July 2015, following a request by the UK and Northern Ireland governments, the DDRB published a report which made a number of observations on the consultant contract in England and Northern Ireland including recommendations on pay, Clinical Excellence Awards and contractual safeguards — read an analysis of the report here. The Welsh government subsequently asked for this to also cover the consultant contract in Wales. These observations formed the basis of the contract negotiations for England and Northern Ireland which re-started in October 2015 and concluded in December 2015. Neither the BMA, nor consultants, asked for these negotiations, however we re-entered because the UK government threatened to impose a new contract and we felt that further negotiation was the better option under the circumstances. We are trying to secure the best deal possible for our members, patients and the NHS.

What is the current situation with the consultant contract negotiations in England and Northern Ireland?
The final face to face negotiating meeting took place at the start of December. Following this a formal note of the meeting has been prepared and sent to the Parliamentary Under Secretary of State for Health, Ben Gummer and the Northern Ireland minister for health Simon Hamilton. The BMA will be meeting with him in January 2016 to discuss this further. It is important to note that we do not have a final offer at the moment but we hope to have one around February or March and will be holding roadshows across England and Northern Ireland after this to explain this in detail. A referendum will be held following the roadshows and all BMA consultant members in England and Northern Ireland employed by the NHS, trainees at ST3 level and above and SAS doctors on the specialty register will be able to give their views on the offer.

Negotiations have finished, have they reached a successful conclusion?
When the Department of Health (DH) asked us to re-enter negotiations - these negotiations were not called for by consultants or the BMA – it was on the understanding that if we were not able to come to a bilateral agreement we would put out an offer that was ‘the best achievable by negotiation’. This means that in this situation differences remain between the parties at the end of the negotiations – and this is the situation we are in now. A formal note outlining areas of alignment and remaining areas of variance between the parties has been sent to Ben Gummer who will come back to us with the UK government’s final offer. We will present this to you and explain exactly what the differences are between what we believe consultants should receive in terms of pay and working conditions and those presented by Employers in the offer.

Why are the UK government taking so long to provide an “offer”, when negotiations concluded on the 8 December?
Face to face negotiations were completed on 8 December and we had anticipated that there would be a short period of time where the two governments considered where the negotiations had got to before making their offer to us. That process has taken longer as the two governments are collating data and re-analysing the financial implications, and is now not likely to be completed until before the end of January or later.

Who will have a vote in the referendum and how will the results be interpreted?
All BMA members in England and Northern Ireland who are consultants employed by the NHS, trainees at level ST3 and above and SAS doctors on the specialist register will be able to vote in the referendum. The consultants committee will meet to discuss the results of the referendum and take a final decision on how to move forward.
What are the proposed changes to the consultant contract in England and Northern Ireland?
The UK government would like to have negotiated an amendment to the 2003 consultant contract. That would mean that if the offer is accepted it would apply to all consultants, both new starters and established consultants. The key areas that have been discussed in negotiations are:

– Removal of S3P6 is the provision that allows consultants to decline non-emergency work outside of core hours.
– Inclusion of contractual safeguards regarding working periods. [Find out more here.]
– An extension of plain time and changes to the remuneration of consultants in unsocial hours. [Find out more here.]
– Changes to consultant pay progression with the introduction of a two point pay scale with a lower starting salary and the second pay point will be lower than the current final pay point but will be reached quicker in a consultant’s career. Progression to the second point (subject to performance) at around five years. Progression to the second pay point will result in faster pay progression earlier in a consultant’s career. [Find out more here.]
– The replacement of the current local Clinical Excellence Awards Scheme with a new non-consolidated, non pensionable performance scheme. [Find out more here.]

What is meant by a “cost-neutral” envelope, and who are the winners and losers?
The Department of Health in England has stated that these negotiations must be cost neutral. This means that there is no new recurrent money likely to be provided by the government — and funding must be moved within the existing pay envelope to support the new way of working. The BMA has made it clear to the government that we believe it is vital that transition costs, to pay for changes to the consultant contract, are funded separately and do not have to be met from within the existing pay envelope. The BMA’s view was also shared by the DDRB in its most recent report to the government on the consultant contract [link]. We understand that this is an important question for many of you but we cannot provide an answer until we have the final offer from the government.

Do the negotiations apply to consultants in Northern Ireland?
Yes. Northern Ireland is the only devolved nation involved in these negotiations. Health minister Simon Hamilton will be sent a formal note outlining areas of alignment and remaining areas of disagreement in relation to the talks. Northern Ireland consultants will be able to give their views on any offer made by the Northern Ireland government.

Do the negotiations apply to consultants in Wales?
Welsh Government representatives have made it apparent that they wish to observe the negotiations for England and Northern Ireland, and once any outcome is clear they will then consider their position. The timing of the next election for the National Assembly for Wales in May 2016 makes it unlikely that any substantive negotiations to your contract will occur until after then. BMA Cymru Wales continue to maintain regular meetings with Welsh Government officials, and have constructive ongoing dialogue on a range of issues.

Why are consultants working in Scotland not affected by the contract negotiations?
There is a separate consultant contract in Scotland, and Scotland has not been party at any stage to the recent consultant contract negotiations, which covered England and Northern Ireland only. The Scottish Government did not give the DDRB any remit to look at changes to the consultant contract in Scotland, so its report did not cover consultants working in Scotland. The Scottish Government has said that it will not seek negotiations on the consultants contract in Scotland until it has more clarity on the service delivery models needed to ensure sustainable high quality seven day services.

Is Jeremy Hunt likely to follow through on his threat to impose a new contract on hospital consultants in England?
We do not yet know the answer to this question. It is clear that the government is free to introduce a new contract for all new starters and any consultants who move jobs, but it is less clear what they could do to persuade consultants to change contract. It is possible, for example, that we could see pay freezes and the focussing of future funding on the new contract.

Will the Welsh Government follow suit?
The Welsh Government has indicated that it wishes to observe the negotiations for England and Northern Ireland, and once any outcome is clear, will then consider its position.
Can any of the Governments in the UK change any aspect of the existing contract?
The Governments can instruct employers to offer a new contract for consultants starting new posts but cannot amend contracts for existing consultants without resorting to fairly extreme measures under employment law.

If Governments force a change on new consultants only, would a two tier system in the consultant grade be created?
The BMA agrees that such proposals will be divisive, leaving new consultants on worse terms and conditions than existing consultants. We are working hard to avoid a split in the consultant grade.

Why does Jeremy Hunt keep saying that doctors don’t work across seven days?
The BMA have challenged this point in all our public statements on the issue of seven-day services. BMA spokespersons have also illustrated that they work evening and weekends in interviews with the national media. You can view our media coverage here.

In our view, Jeremy Hunt has confused emergency and elective working and has continuously pressed a message that a shortage of senior doctors in hospitals at weekends is damaging patient safety. There is evidence across most health services globally of a ‘weekend effect’ whereby mortality figures for those admitted at weekends seems slightly higher, even when staffing levels are high, however there is no evidence of the causation of that effect.

Fundamentally, the BMA believes that NHS care should be of the same high quality across seven days and that implementation of seven day services should prioritise urgent and emergency care.

The introduction of seven day services is more complex than just increasing the number of doctors that work at the weekend – why is this not understood?
The BMA has stressed in our public statements on the issue that seven day services will require nurses, diagnostic staff, porters, administration staff and adequate social care for discharge. To maximize the positive effect a consultant can have on patient care, they must have access to the full range of clinical and support services. We will continue to emphasise this point.

Where has the ‘6,000 people die every year because hospitals don’t provide a proper seven day service’ figure from?
They say the number comes from analysis of unpublished Hospital Episode Statistics in England. In reality, this headline grabbing figure masks complexity. For example it refers to the people who are admitted at the weekend and die, perhaps on other days of the week, rather than all deaths at the weekend, and doesn’t take into account the severity of illness. The article itself was clear that it could not link excess mortality to reduced staffing.

The BMA believes that any debate about seven day services should be based on robust evidence, not headline grabbing rhetoric and we have been very critical of the government for using this tactic.

How will doctors be paid for working across seven days?
We have been pressing for a deal that recognises the unsocial nature of weekend working and the impact that it has on family life. Read more about seven day services.

How can I feed into this debate?
Throughout the contract negotiation process we have consulted members in surveys, online discussion and events to gauge opinion. Your views will help us decide on the next steps. You can tell us what you think in BMA Communities.

If you have further questions you can get in touch with us at info.cc@bma.org.uk.